No. 12549

In the United States Court of Appeals for the Ninth Circuit

MIKE J. FEELEY, APPELLANT

v.

TIGHE E. WOODS, HOUSING EXPEDITER, OFFICE OF THE HOUSING EXPEDITER, APPELLEE

APPEAL FROM THE UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION

APPELLANT'S PETITION FOR REHEARING

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Attorney for Appellant.

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PETITION FOR REHEARING OF JUDGMENT

Filed June 15, 1951

The Appellant respectfully petitions the Court for a rehearing on the ground that the Court erred in applying the wrong theory of law.

In contrasting the Emergency Price Control Act of 1942 and the Housing and Rent Acts Appellant attempted to bring out sharply the "essential dissimilar" legislative standards for legal conduct for landlords and tenants.

50 Am Jur 313, Sec. 320, Note 20.

The U. S. Supreme Court did likewise and in much stronger language pointed out the differences between the two statutes, on page 602 (92 L ed)

> "The powers thus delegated are far less extensive than those sustained in *Bowles v. Willingham* (321 U.S. 512, 68 L ed. 901, 64 S. Court 641). *Nor is there here a grant of unbridled administrative discretion.*" (Italics ours)
>
> *Woods v. Miller,* 92 L ed. 596, 333 U.S. 138, 68 S. Ct. 421.

Moreover, in the light of the rapidly changing global and internal situations — "including the social, economic and governmental conditions of the state or country" (50 Am. Jur. 277, Sec. 295) Appellant attempted to furnish this court a yard stick, a practical lawyer's, if not a judicial, formula for measuring the "outs and ins" of changing legislation in the hope that decisions as well as attitudes based on an "out" statute will not control the one which is displaced. This legal "Time-Conditions" formula was set forth on page 5 of the opening brief and is known as "legal relativity." This "nut shell" application of the theory was expanded by Appellant's counsel in the second

section of an article published nearly 20 years ago in the June 1932 issue of the Temple Law Quarterly, Vol. VI, No. 4, 515 pp 531-536 entitled "The Application of the Theory of Relativity to Law."

The decision of the Court not only ignores the passing of time, the changed economic conditions, the many dissimilarities and the differing objectives of the two statutes but also the distinctions made by the U. S. Supreme Court of the two "out and in" statutes in the *Woods v. Miller* case, *supra.*

In conclusion, if the Court is not interested in a theory let us reiterate this mathematical fact: that if the City of Seattle had condemned the building as being unsafe and unhealthy there would have been 17 less tenants, the very opposite of which is the objective of the Housing and Rent Acts. By way of a further contrast, judicial notice should be taken that Los Angeles and Portland in the 9th Circuit are free from rent control which would not have been allowed under the *Bowles v. Willingham* decision, *supra.* Moreover, the action should have been stayed

to permit review of unanticipated "earthquake" damage.

Woods v. Gates, 88 F. Supp. 867.

Respectfully submitted,

MARK M. LITCHMAN,
Attorney for Appellant.

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I hereby certify that the above Petition in my judgment is well founded in law and is not interposed for delay.

MARK M. LITCHMAN,
Attorney for Appellant.